

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SNOHOMISH

NATHAN RIMMER,

Petitioner and Plaintiff,

v.

CITY OF EDMONDS, a municipal
corporation of the State of Washington,

Respondent and Defendant.

No.: 23-2-05426-31

~~PROPOSED~~ STIPULATION AND
AGREED ORDER CONCERNING
EFFECT ON REMAINING CLAIMS OF
COURT'S ORDER GRANTING
PARTIAL SUMMARY JUDGMENT

THIS MATTER came before the Court on January 31, 2024 for a hearing on the parties' cross-motions for summary judgment. The Court granted the Plaintiff's motion with a written Order on Cross-Motions for Partial Summary Judgment entered on December 10, 2024 (dated as December 9, 2024). The parties would now like to enter the following stipulation as a result of the entry of the December 9, 2024 order granting partial summary judgment to Plaintiff.

STIPULATION

The undersigned parties hereby stipulate and agree to the following terms for the resolution of the remaining claims and the preservation of appeal rights with respect to the Court's ruling on December 9, 2024 regarding the contested motion for partial summary judgment.

~~PROPOSED~~ STIPULATION AND
AGREED ORDER CONCERNING EFFECT
ON REMAINING CLAIMS OF COURT'S
ORDER GRANTING PARTIAL SUMMARY
JUDGMENT - 1

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1 The parties agree that the writ of mandate and writ of prohibition claims have been
2 mooted by the City's approval of Mr. Rimmer's building permit on March 27, 2024.

3 Accordingly, these claims should be dismissed.

4 The parties agree that liability under the remaining claim in this matter for violation of
5 the civil rights act under 42 USC 1983 would follow the ultimate result of the motions that were
6 decided by the court on partial summary judgment. Therefore, a separate summary judgment
7 motion to establish liability under 42 USC 1983 is not necessary and would be a waste of the
8 parties' and judicial resources. Similarly, because of the possibility of an appeal of the order
9 granting partial summary judgment, any determination of damages under 42 USC 1983 should
10 be held in abeyance pending the final outcome of any appeal of the partial summary judgment
11 ruling.

12 The parties agree that by entering this stipulation, neither party waives their right to
13 appeal the Court's ruling on the motion for partial summary judgment. The right to appeal said
14 ruling is hereby expressly preserved.

15 The parties request that the Court stay proceedings on the remaining claims in this case
16 pending the final determination of any appeals arising from the Court's ruling on the partial
17 summary judgment.

18 Upon the final resolution of any appeal, either party may request the Court to lift the
19 stay and proceed with a resolution of damages of the 42 USC 1983 claim, or a dismissal of the
20 42 USC 1983 claims, in accordance with the appellate court's ruling.

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23 [PROPOSED] STIPULATION AND
24 AGREED ORDER CONCERNING EFFECT
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JUDGMENT - 2

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1 The parties respectfully request that the Court enter the Agreed Order below to
2 effectuate this stipulation and render the order on partial summary judgment final for purposes
3 of review under CR 54(b).

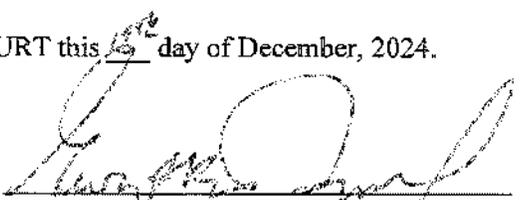
4 **AGREED ORDER**

5 This matter comes before the Court on the parties' above stipulation, and the Court, having
6 reviewed the stipulation, hereby ORDERS as follows:

- 7 • The Court hereby enters a final judgment in favor of the Plaintiff as to the Plaintiff's
8 Complaint for Declaratory Judgment; and
- 9 • As a result of the Court's order on the Complaint for Declaratory Judgment, the Court
10 hereby further enters a final judgment in favor of the Plaintiff as to the liability phase of
11 Plaintiff's claim under 42 USC 1983.
- 12 • As to the above final judgments, the Court hereby finds, pursuant to CR 54(b), that the
13 facts in the above stipulation reasonably represent the status of this matter and that there
14 is no just reason for delay in entering these judgments given that their outcome would
15 control the disposition of the remaining issues in the case and that the parties should not
16 have to litigate damages under 42 USC 1983 until the question of liability has been
17 finally resolved.
- 18 • The Court hereby stays litigation concerning the quantity of damages under 42 USC
19 1983 until such time that the question of liability under 42 USC 1983 has been finally
20 resolved pursuant to any appeal that might follow the entry of this order.

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DONE IN OPEN COURT this 3rd day of December, 2024.


THE HONORABLE GEORGE F.B. APPEL

Respectfully submitted and agreed to by:

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[PROPOSED] STIPULATION AND
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JUDGMENT - 4

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** Admitted Pro Hac Vice under APR 8*

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23 [PROPOSED] STIPULATION AND
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JUDGMENT - 5

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